रजिस्ट्री सं॰ डी॰ एल॰—(एन)04/0007/2003—14 REGISTERED NO. DL—(N)04/0007/2003—14

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 2
PART II — Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 40] नई दिल्ली, शुक्रवार, दिसम्बर 12, 2014/अग्रहायण 21, 1936 (शक)
No. 40] NEW DELHI, FRIDAY, DECEMBER 12, 2014/AGRAHAYANA 21, 1936 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 12th December, 2014:—

I

BILL NO. XX OF 2014

A Bill to provide for equal compensation to persons affected by accidents by the appropriate Government and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Accident Affected Person (Equal Compensation) Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "accident" means an unexpected and undesirable event causing injury to death of a person during travel (road, railway, aircraft), natural disasters, terrorist and extremists activites and stampede;

(*b*) "affected person," means person killed or injured in the accidents;

(*c*) "apppropriate Government" means in the case of a State, the Government of that State and in all other cases the Central Government;

(*d*) "compensation" means financial assistance provided by the Central Government to the accident affected persons under this Act;

(*e*) "dependent" means the parents, spouse, children and siblings of the affected person;

(*f*) "Fund" means 'Accident Affected Persons Compensation Fund' established under section 4 of this Act;

(*g*) "prescribed" means prescribed by rules made under this Act; and

(*h*) "qualified medical practitioner" means any person declared by the Central or State Government by notification in the Official Gazette to be a qualified medical practitioner for the purpose of this Act.

Equal compensation to accident affected person.

3. (*1*) The Central Government shall in accordance with the loss or injury sustained, provide equal amount as compensation to every accident affected person.

(*2*) Subject to the provisions of this Act, amount of compensation shall be as follows:

(*i*) where death results from the accident, the dependents of the deceased shall be given rupees twenty lakhs;

(*ii*) where permanent disability results from the accident, the injured shall be given rupees ten lakh;

(*iii*) where temporary disability results from the accident, the injured shall be given rupees four lakh; and

(*iv*) where ordinary injury results from the accident, the injured shall be given rupees one lakh.

(*3*) The nature of injury from accident, shall be examined and reported by a qualified medical practitioner, in such manner as may be prescribed.

(*4*) The compensation amount shall be disbursed to the affected persons or to his dependent within one week from the date of receipt of report of the qualified medical practitioner.

Establishment of Accident Affected Persons Compensation Fund.

4. (*1*) The Central Government shall establish an Accident Affected Persons Compensation Fund for the purposes of this Act.

(*2*) The State Governments shall contribute to this Fund in such proportion as may be prescribed.

(*3*) Such other sums as may be received by way of donation, contribution for assistance both from domestic and international institutions shall also be credited to the fund.

(*4*) The fund shall be managed by a Board which shall comprise of the following persons:—

(*i*) the Prime Minister — *Ex-officio Chairman;*

(*ii*) the Chief Ministers of every State and Lieutenant Governer or Chief Administrators of Union Territories;

(*iii*) ten retired judges of High Court /Administrative Officers whose nomination shall be done by the Central Government in such manners as may be prescribed.

(*5*) The Central Government may require a State Government to furnish for the purposes of this Act, such statistical and other information as may be necessary for implementation of the provision of this Act, in such form and within such period as may be prescribed.

Constitution of a special team by the appropriate Government.

5. (*1*) The appropriate Government shall constitute a special team to effectively implement the provisions of this Act within their jurisdiction.

(*2*) The special team shall consist of ten members of which five shall be appointed by the Central Government and five by the State Government.

(*3*) The functions of the special team shall be to,—

(i) visit the accident site and collect information relating to the victims;

(ii) submit the accident related information to the Accident Affected Persons Compensation Fund Board;

(iii) ensure that the victims receive the compensation within the time limit prescribed under this Act;

(iv) any other works that may be assigned by the Accident Affected Persons Compensation Fund Board constituted under section 4 of this Act.

Central Government to provide adequate funds.

6. The Central Government shall, after due appropriation made by Parliament in this behalf by law, provide adequate funds for carrying out the purposes of this Act.

Savings.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt within this Act.

Power to make rules.

8. The Central Government may, by notification in Official Gazette make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India provides right of equality to every citizen under the Fundamental Rights. There is a provision for equality and non-discrimination before law under articles 14 to 16 and for social equality under articles 17 and 18 of the Constitution. The right to equality provided by the Constitution provides that all persons within the territories of India should get equal protection under the law and should be treated equally before all in similar situations. In case of accident affected person financial assistance is provided as compensation to them. However at time the relatives of the deceased have to go to court for justice which is unfortunate. Thousands of suits are filed in courts for similar compensation in similar situations. In many cases, courts have also given decisions to provide for equal amounts. Despite this, there is no clear policy regarding this at the Government level. Everything depends on the administrative decision. Now, the time has come to formulate a clear cut law for providing fixed amounts as, compensation to the dead and injured in accidents.

Hence, this Bill.

PRABHAT JHA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for compensation of rupees twenty lakh for the person deceased in the accident, rupees ten lakh in case of permanent disability, rupees four lakh in case of temporary disability and rupees one lakh for ordinary injury. Clause 4 provides for establishment of an Accident Affected Persons Compensation Fund. Clause 6 provides for adequate funds to carry out provisions of this Act. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. At present, it is not possible to determine the quantum of funds. But it is estimated that a recurring expenditure of rupees twenty five thousand crore per year will be involved.

In order to create infrastructure, a non-recurring expenditure of rupees five thousand crore from the Consolidated Fund of India may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of this Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. XIX OF 2014

A Bill to provide for the establishment of the National Himalayan Region Environment Protection and Development Institute and fund for undertaking environment protection and development work in the Himalayan region of the country and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian (National) Himalayan Region Environment Protection and Development Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Fund" means the National Himalayan Region Environment Protection and Development Fund established under section 5 of the Act.

(*b*) "Himalayan region" means the Himalayan region spreading along Indian borders;

(*c*) "Institute" means the National Himalayan Region Environment Protection and Development Institute established under section 3 of the Act; and

(*d*) "prescribed" means prescribed by rules made under this Act;

Establishment of the National Himalayan Region Environment Protection and Development Institute.

3. (*1*) The Central Government shall by notification in the Official Gazette establish an institute to be called as the National Himalayan Region Environment Protection and Development Institute for the purpose of carrying out the objectives under this Act.

(*2*) The institute shall have its headquarters at New Delhi and a regional office at the capital of every State having Himalayan region within its territorial jurisdiction.

(*3*) The institute shall be headed by a Director-General appointed by the Central Government.

(*4*) Every regional office of the institute shall be headed by a Director to be appointed by the Central Government in such a manner as may be prescribed.

(*5*) The Central Government shall provide such number of officers and staff for the institute and its regional offices as may be required for its functioning.

(*6*) The salary and allowances payable to, and other terms and conditions of the officers and staff of the Institute and regional offices shall be such as may be prescribed.

Functions of the National Himalayan Region Environment Protection and Development Institute.

4. The National Himalayan Region Environment Protection and Development Institute shall perform the following functions:—

(*a*) to frame a National Himalayan Region Environment Protection Policy in consultation with State Governments falling in the Himalayan regions and the environmentalists;

(*b*) to maintain the ecology of the Himalayan region and to protect it from climatic changes;

(*c*) to ensure action inconsistent therewith and to evaluate the policy from time to time and to amend it; and

(*d*) to promote and develop traditional vocations and industries in Himalayan regions.

Constitution of National Himalayan Region Environment Protection and Development Fund.

5. (*1*) The Central Government shall, by notification in the Official Gazette, constitute a fund to be known as the National Himalayan Region Environment Protection and Development Fund with an initial sum of rupees twenty five thousand crore.

(*2*) The State Governments having the Himalayan regions shall contribute to the fund in such proportion as may be prescribed.

(*3*) The fund shall be administered by the National Himalayan Region Environment Protection and Development Institute established under sub-section (*1*) of section 3.

(*4*) The fund shall be utilised for the implementation of the policy for environment protection and development of the Himalayan region.

Act not to be in derogation of other laws.

6. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to any of the matters dealt within this Act.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REGIONS

It became clearly evident in the aftermath of the recent disaster that struck Uttarakhand that if interference in the Himalayas in the name of unfettered development continues further, the country may have to face even more dreadful disasters in future. A comprehensive policy needs to be formulated for protection of environment and development in the Himalayan region.

There is an urgent need to develop the area scourged by the national disaster in the Himalayan region and to formulate a policy of sustainable development that does not harm the environment of the region. In this context, there is a need for institutionalised arrangement to give attention to the development and protection of environment in the entire Himalayan region falling within the Indian territory. A uniform policy needs to be formulated for all the areas falling within the Himalayan region of the country. For formulating and implementing any such policy, it is also essential to give a fillip to the utilisation of resources available in the Himalayan region and special means should be made available to the locals for the development of the region.

Hence, this Bill.

PRABHAT JHA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of the National Himalayan Region Environment Protection and Development Institute. Clause 5 provides for constitution of the National Himalayan Region Environment Protection and Development Fund with the initial amount of rupees twenty five thousand crore. Hence, the Bill, if enacted, will involve expenditure from the Consolidated Fund of India.

At this stage, it is not possible to quantify the exact amount, however, it is estimated that a sum of rupees twenty five thousand crore per annum is likely to involve as recurring expenditure.

A sum of rupees one thousand crore is also likely to involve as non-recurring expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Since the rules will relate to matters of details only, the delegation of legislative power is of normal character.

III

BILL NO. XLIX OF 2014

A Bill to provide for the formulation and implementation of a comprehensive national policy for ensuring overall development of the transgender persons and for their welfare to be undertaken by the State and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Rights of Transgender Persons Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition.

2. In this Act, unless the context otherwise requires, —

(*a*) 'abuse' includes verbal and physical abuse;

(*b*) 'appropriate government' means;

(*i*) In relation to an establishment of the Central Government, or an establishment, wholly or substantially owned or financed by that Government,

2 of 1924.

or a Cantonment Board constituted under the Cantonments Act, 1924, or a Union Territory without legislature, or the provider of a service which pertains to List 1 in Schedule VII of the Constitution, the Central Government;

(*ii*) In all other cases, the State Government or, as the case may be, the Government of a Union Territory with legislature.

(*b*) 'barrier' means any factor including attitudinal, cultural, economic, institutional, political, religious, social or structural factors which hampers the full and effective participation, of transgender person in society;

(*c*) 'discrimination' means any distinction, exclusion or restriction on the basis of gender identity and expression which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination, including denial of reasonable accommodation;

(*d*) 'establishment' means and includes;

(*i*) Departments and Ministries of Government;

(*ii*) Local authorities and authorities or bodies owned, controlled or aided by the Central or State Government;

(*iii*) Any statutory or non-statutory body created, owned, financially or administratively controlled or aided by the Central or State Government or any such body performing public or civic functions and includes Government Companies as defined in Section 617 of the Companies Act, 1956;

(*iv*) Any company, firm, cooperative or other society, association, trust, agency, institution, organization, union, industry, supplier of goods or services, factory or other non-statutory body which is not covered under clause (a) to (c) and provides services as defined in clause (r) section 2;

(*e*) 'exclusive transgender rights court' means a court notified under section 47 of this Act;

(*f*) 'exploitation' means using a transgender person to one's own advantage to which one is not otherwise entitled, or to the latter's disadvantage, to which such latter person is not otherwise liable;

(*g*) 'higher education' means a course of education which can be pursued after completing twelve years of school education;

(*h*) 'human rights' shall have the meaning assigned to it in Clause (d) of Section 2 of the Protection of Human Rights Act, 1993;

10 of 1994.

(*i*) 'inclusive education' means a system of education wherein all students learn together, most or all of the time;

(*j*) 'institution' means an institution for the reception, care, protection, education, training, rehabilitation or any other service of transgender persons;

(*k*) 'local authority' means a municipality, a Cantonment Board, a Panchayat or any other authority, established under an Act of Parliament, or a State Legislature to administer the civic affairs of any habitation as defined in or under such Act;

(*l*) 'National Commission' means the National Commission for Transgender Persons constituted under Section 26 of this Act.

(*m*) 'prescribed' means prescribed by rules made under this Act;

(*n*) 'public building' means a building, irrespective of ownership, which is used and accessed by the public at large; and includes its entrance, exit, parking space, footpath and other appurtenant lands;

(*o*) 'reasonable accommodation' means an accommodation needed to ensure transgender persons the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

(*p*) 'registered organization' means an association transgender persons, or a voluntary, non-governmental or charitable organization or trust, society, non-profit company working for transgender persons, duly registered under an Act of Parliament or a State Legislature;

(*q*) `rehabilitation' refers to a process aimed at enabling transgender persons to attain and maintain maximum independence, full physical, sensory, intellectual psychiatric, social and vocational ability, and inclusion and participation in all aspects of life

(*r*) 'services' means services provided by members of any profession or trade, or provided by any Govemment, local authority or establishment and includes services relating to banking and finance; education; health; insurance; rehabilitation; entertainment recreation and hospitality; transport or travel; and telecommunications;

(*s*) 'State Commission' means a State Commission for Transgender Persons constituted under Section 38 this Act.

(*t*) 'transgender person' means a person, whose gender does not match with the gender assigned to that person at birth and includes trans-men and trans-women (whether or not they have undergone sex reassignment surgery or hormone therapy or laser therapy etc.), gender-queers and a number of socio-cultural identities such as — *kinnars, hijras, aravanis, jogtas* etc.

(*u*) 'violence' means causing physical or mental harm or injury.

Guiding Priciples.

3. The appropriate Government and local authorities shall, subject to the provisions of this Act and any other law for the time being in force, take the following necessary steps to secure for transgender persons:—

(*a*) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;

(*b*) non-discrimination;

(*c*) full and effective participation and inclusion in society;

(*d*) respect for difference and acceptance of transgender persons as part of human diversity and humanity;

(*e*) equality of opportunity; and

(*f*) accessability.

CHAPTER II

RIGHTS AND ENTITLEMENTS

Eqality and Non-Discrimination.

4. (*1*) The appropriate Government shall take all necessary steps to ensure that transgender persons enjoy the right of equality guaranteed by Article 15 of the Constitution of India on an equal basis with others.

(*2*) The appropriate Government shall take all necessary steps to ensure reasonable accommodation for the transgender persons.

Transgender Children.

5. (*1*) The appropriate Government and local authorities shall take all necessary measures to ensure that transgender children enjoy human rights on an equal basis with other children.

(*2*) The appropriate Government and local authorities shall ensure that all transgender children shall have on an equal basis with all other children a right to freely express their views on all matters affecting them; and provide them appropriate support for the exercise of the right.

Right to Life and Personal Liberty.

6. (*1*) The appropriate Government shall take necessary steps to ensure that transgender persons enjoy the right to life with dignity and to personal liberty guaranteed by article 21 of the Constitution of India on an equal basis with others.

(*2*) No person shall be deprived of his personal liberty only on the ground of being a transgender.

Right to live in Community.

7. (*1*) All transgender persons shall have the right to live in the community with choices equal to others.

(*2*) The appropriate Government and local authorities shall take appropriate measures to ensure full enjoyment of the right mentioned in sub-section (*1*) of section 7 by:—

(*a*) ensuring that transgender persons have access to a range of in-house, residential and other community support services, including assistance necessary to support living and inclusion with community; and

(*b*) making community services and facilities for the general population available on an equal basis to transgender persons.

Right to Integrity.

8. Every transgender person has a right to respect for his or her physical and mental integrity on an equal basis with others.

Protection from torture or cruel, inhuman or degrading treatment or punishment.

9. The appropriate Government and local authorities shall take all appropriate administrative and other measures to protect persons from being subjected to torture, or cruel, inhuman or degrading treatment or punishment.

Protection from abuse, Violence and Exploitation.

10. (*1*) The appropriate Government and local authorities shall take all appropriate administrative, social , educational and other measures to protect transgender persons, both within and outside the home, from all forms of abuse, violence and exploitation.

(2) Any person, or registered organization who or which has reason to believe that an act of abuse, violence or exploitation has been, or is being, or is likely to be committed against any transgender person, may give information about it to the Executive Magistrate in whose jurisdiction such incident occurs or is likely to occur, who, on receipt of such information, shall take immediate steps to stop it or prevent its occurrence as the case may be, or pass such order as he deems fit for the protection of such transgender person including an order,—

(*a*) to rescue the victim by authorizing the police or any reliable organization working for transgender persons to provide for the safe custody, or rehabilitation of such transgender person, or both, as the case may be;

(*b*) for providing protective custody to the transgender person if such person so desires; and

(*c*) to provide for maintenance to such transgender person.

(*3*) No civil or criminal liability shall be incurred by any person who in good faith furnishes information under sub-section (*2*) of section 10;

(*4*) Any police officer who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards any transgender person shall inform the aggrieved person of:

(*a*) the right to apply for protection under sub-section (2) of section 10.

(*b*) the particulars of the nearest organization or institution working for the rehabilitation of transgender person who have been subject to abuse, violence or exploitation;

(*c*) the particulars of the Executive Magistrate having jurisdiction to provide assistance to aggrieved persons;

(*d*) the right of the transgender person to free legal services under the Legal Services Authorities Act, 1987 and any other services offered by the National Legal Services Authority or the State Legal Services Authority for the benefit of transgender persons; and 39 of 1987.

(*e*) the right to file a complaint under the relevant provisions of the Indian Penal Code, 1860 or any other law dealing with such crimes: 45 of 1860.

Provided that nothing in this section shall be construed to free such Police Officer of his obligation to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

(*5*) If the Executive Magistrate finds that the alleged act or behaviour would also be an offence under the Indian Penal Code, 1860 or under any other law imposing criminal sanctions on such acts, he may forward a complaint to that effect to the judicial or metropolitan magistrate, as the case may be, having jurisdiction in the matter, whereupon the latter shall act on it forthwith in accordance with law. 40 of 1860.

(*6*) The appropriate Government shall take all appropriate measures to prevent abuse, violence and exploitation against transgender persons by, *inter alia* providing information and raising awareness on:

(*a*) taking cognizance of incidents of abuse, violence and exploitation;

(*b*) the legal remedies available against such incidents;

(*c*) steps to be taken for avoiding such incidents;

(*d*) pocedure for reporting such incidents; and

(*e*) steps required for the rescue, protection and rehabilitation of transgender persons who have been victims of such incidents.

Right to Home and Family.

11. (*1*) No child who is a transgender shall be separated from his or her parents on grounds of being a transgender except on an order of competent Court, if required in the best interest of the child.

(2) Where the immediate family is unable to care for a transgender child, the competent Court shall make every effort to place such child within his or her extended family, or within the community in a family setting.

Explanation—'Family' means a group of people related by blood, marriage or adoption to a transgender person.

12. The appropriate Government and local authorities shall take steps to ensure that transgender persons are able to enjoy the rights regarding freedom of speech, etc., provided by Article 19 of the Constitution of India, on an equal basis with others. Freedom of Speech, etc.

CHAPTER III

EDUCATION

13. The apropriate Government and local authorities shall ensure that all educational institutions funded or recognized by them, provide inclusive education, and *inter alia,*— Duty of Educational Institutions to provide Inclusive Education to Trangender Students.

(*i*) admit transgender students without discrimination and provide them education as also opportunities for sports, recreation and leisure activities on an equal basis with other;

(*ii*) provide reasonable accommodation of the individual's requirements;

(*iii*) provide necessary support in environments that maximize academic and social development, consistent with the goal of full inclusion;

(*iv*) monitor participation, progress in terms of attainment levels, and completion of education, in respect of every transgender student.

14. The Appropriate Government and local authorities shall ensure participation of transgender persons in adult education and continuing education programmes on an equal basis with others. Adult Education for Transgender Persons.

CHAPTER IV

SKILL DEVELOPMENT & EMPLOYMENT

15. (*1*) The appropriate Government shall formulate schemes and programmes to facilitate and support employment of transgender persons especially for their vocational training and self-employment. Vocational Training and Self-Employment.

(*2*) The appropriate Government shall institute mechanisms for provision of loans at concessional rates to transgender persons for self-employment ventures, and for marketing of their products.

16. (*1*) No establishment shall discriminate against any transgender person in any matter relating to employment including but not limited to recruitment, promotion and other related issues. Non-Discrimination in Employment.

(*2*) Any transgender person, if eligible for any post which is be filled, shall have the right to appear for selection and hold the post if selected.

CHAPTER V

SOCIAL SECURITY, HEALTH, REHABILITATION & RECREATION

17. (*1*) The appropriate Government shall promulgate necessary schemes and programmes to safeguard and promote right of transgender persons to adequate standard of living and living conditions to enable them to live independently and in the community. Social Security.

(*2*) the schemes under sub-section (*1*) of section 17 shall *inter-alia* provide:—

(*a*) safe and hygienic community centres with decent living conditions in terms of nutritious food, sanitation, health care and counselling;

(*b*) facilities for persons including transgender children who have no families or have been abandoned, or are without shelter or livelihood;

(*c*) access to safe drinking water and appropriate and accessible sanitation facilities especially in urban slums and rural areas.

(*d*) pension to transgender persons subject to such income ceiling as may be prescribed;

(*e*) unemployment allowance to unemployed transgender persons registered with special employment exchange for more than two years and who could not be placed in any gainful occupation.

Health case facilities.

18. (*1*) The appropriate Government and local authorities shall take necessary measures to provide transgender persons:—

(*a*) separate HIV Sero-survellance Centres since they face several sexual health issues;

(*b*) sex reassignment surgery, free of cost;

(*c*) barrier-free access in the hospitals and other healthcare institutions and centres;

(*2*) To fulfil its obligation under this Section, the appropriate Governments shall make schemes and programmes with participation and involvement of transgender persons and care-givers that *inter alia* makes provision for coverage of medical expenses and therapeutic intervention by a comprehensive insurance scheme for transgender persons.

Rehabilitation of transgenders.

19. (*1*) The appropriate Government and local authorities shall undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all transgender persons.

(*2*) The service and programmes shall be designed so to begin at the earliest possible stage and to be based on a comprehensive assessment of issues faced by transgender persons.

(*3*) For purposes of sub-section (*1*) of section 19, read with sub-section (*2*), the appropriate Government and local authorities shall, subject to fulfilment of financial and other norms, and availability of budgetary allocation, grant financial assistance to non-governmental organizations.

(*4*) The appropriate Government and local authorities, while formulating rehabilitation policies, shall consult the non-governmental organizations working for the cause of transgender persons.

(*5*) Without prejudice to the generality of sub-section (*1*) of section 19, the appropriate Government shall by notification formulate schemes to provide aid to transgender persons.

Leisure, Culture and Recreation.

20. (*1*) The appropriate Government and local authorities shall take suitable measures to promote and protect the right of all transgender persons to have a cultural life and to participate in leisure and recreational activities on an equal basis with others.

(*2*) Without prejudice to the general obligation in sub-section (*1*) of section 20, such measures shall include,—

(*a*) Sponsoring of transgender film, theatre, music and dance festivals;

(*b*) establishment of a transgender history museum which chronicles and interprets the historical experiences of transgender persons;

Reservation in Primary, Secondary and Higher Educational Institutions.

21. All Government instituations of primary, secondary and higher education and all primary, secondary and higher education institutions receiving aid from the Government shall reserve two percent of the total seats in each class or course for transgender persons:

Provided that transgender persons are not to be prevented from competing for seats which are not reserved for them.

Reservation of Posts for Transgender Persons.

22. Every appropriate Government shall reserve, in every establishment under them, not less than two per cent of the vacancies meant to be filled by direct recruitment, for transgender persons.

Incentive to employers in the Private Sector.

23. The appropriate Government shall, within a period of one year from the commencement of this Act, provide incentives to employers in the private sector to ensure that at least two per cent of their work force is composed of transgender persons within a period of five years from the commencement of the Act.

Special Employment Exchange.

24. (*1*) The appropriate Government may, by notification, specify that the employer in every establishment shall furnish such information or return as may be prescribed in relation to vacancies appointed for transgender persons that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be prescribed and the establishment shall thereupon comply with such information.

(*2*) The form in which and the intervals of time for which information or returns shall be furnished and the particulars, they shall contain shall be such as may be prescribed.

CHAPTER VI

DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVERNMENT

Awareness Raising.

25. (*1*) The appropriate Government in consultation with the National or State Commission, as the case may be, shall conduct, sponsor, encourage, support or promote on a regular and continuous basis information campaigns and sensitization programmes to ensure that the rights recognized in this legislation are respected, protected and promoted.

(*2*) The campaigns shall aim at enabling both state and civil society to comprehend transgenderism as an integral part of the human condition, to recognize the capabilities and contributions of transgender persons, and to combat the stereotypes, prejudices and harmful practices which impede the participation of transgender persons on an equal basis with others;

(*3*) Without prejudice to the general awareness raising obligation in sub-section (*1*) of section 25, such programmes, campaigns and workshops shall *inter-alia*,—

(*a*) Promote values of inclusion, tolerance, empathy and respected for diversity;

(*b*) advance recognition of the skills, merits and abilities of transgender persons and of their contributions to the workforce, labour market and professional fee;

(*c*) Poster respect for the decisions made by transgender persons on all matters related to family life, relationships, bearing and raising children;

(*d*) Provide orientation and sensitization at the school, college, university and professional training level on the human condition of transgenderism and the rights of transgender persons; and

(*e*) Provide orientation and sensitization on transgenderism and rights of transgender persons to employers, adminsitrators and co-workers.

CHAPTER VII

NATIONAL AND STATE COMMISSIONS FOR TRANSGENDER PERSONS

A. National Commission

Constitution of National Commission for Transgender Persons.

26. (*1*) The Central government shall, by notification, constitute a body to be known as the National Commission for transgender persons to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

(*2*) The Commission shall consist of the following Members, namely,—

(*a*) a Chairperson, who is an eminent person with a distinguished record of service in the field of transgender rights and rehabilitation; and

(*b*) six members, of whom at least three shall be transgender persons and to be popularly acknowledged by the representatives of the transgender community and the other three members must have a distinguished record of service in the fields of rehabilitation, advocacy, law, relating to transgenders.

(*3*) The Chairperson and the Members shall be appointed by the Central Government on the recommendation of a Selection Committee with such composition as may be prescribed.

(*4*) The Headmistress of the National Commission should be at such place as the Central Government by notification, specify.

Term of office of Chairperson and members.

27. The Chairperson and a Member of the National Commission shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty five years, whichever is earlier and shall be eligible for reappointment for another term of three years.

Resignation and Removal of Chairperson.

28. (*1*) The Chairperson or any Member may, by notice in writing under his hand addressed to the President, resign his office.

(*2*) Subject to the provisions of sub-section (*3*) of Section 28, the Chairperson or any Member shall only be removed from his office by order of the President on the ground of proven misbehaviour or incapacity has, on an inquiry held in accordance with the procedure, prescribed under this Act.

(*3*) Notwithstanding anything in sub-section (*2*) of Section 28, the President may, by order, remove from office the Chairperson or any Member, if the Chairperson or such Member, as the case may be:—

(*a*) is adjudged an insolvent; or

(*b*) engages during his term of office in any paid employment outside the duties of his office; or

(*c*) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude.

Member to act as Chairperson or to Discharge his Functions in Certain Circumstances.

29. (*1*) In the event of the occurence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(*2*)If the Chairperson is unable to discharge his functions', owing to absence on leave or otherwise, one of the Member, as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and Conditions of Service of Chairperson and Members.

30. The salaries and allowances payable to and other terms and conditions of service of, the Chairperson and the Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a member shall be varied to his disadvantage after his appointment.

Vacancies, etc., not to Invalidate the Proceedings of the Commission.

31. No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

Procedure to be Regulated by the Commission.

32. (*1*) The Commission shall meet at such time and place as the Chairperson may think fit.

(*2*) Subject to the provisions of this Act and the rules made thereunder, the Commission shall have the power to lay down, by regulations, its own procedure.

(*3*) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Chairperson in this behalf.

Officers and Other Staff of the Commission.

33. (*1*) The Central Government shall make available to the Commission an officer of the rank of an Additional Secretary to the Government of India who shall be the Secretary to the Commission.

(*2*) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative and technical officers and staff, as it may consider necessary.

(*3*) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (*2*) of section 33 shall be such as may be prescribed.

Functions of the Commission.

34. The Commission shall perform all or any of the following functions, namely:—

(*a*) identify, *suo-moto,* or on a representation received, provisions of any laws, policies, programmes and procedures, which are inconsistent with this Act, and recommend necessary corrective steps;

(*b*) review and coordinate the activities of all Departments of Government and other Governmental and non-Governmental Organizations which are dealing with matters concerning transgender persons;

(*c*) inquire, *suo-moto* or on a complaint by an affected transgender person or any person or organization on his behalf, with respect to deprivation of his rights and safeguards in respect of matters for which the Central Government is the appropriate Government and take the up the matter with the appropriate authorities for corrective action, as necessary;

(*d*) intervene in any proceeding involving any allegation of violation of the rights of transgender persons pending before a court with the approval of such court;

(*e*) review the safeguards provided by or under this Act or any law for the time being in force for the protection of rights of transgender persons and review the factors that inhibit the enjoyment of rights of transgender persons and recommend appropriate remedial measures;

(*f*) study treaties and other international instruments on the rights of transgender persons and make recommendations for their effective implementation;

(*g*) undertake and promote research in the field of the rights of transgender persons;

(*h*) promote awareness of the rights of transgender persons and promote awareness of the safeguards available for their protection;

(*i*) monitor implementation of the provisions of this Act and of schemes, programmes, etc., meant for transgender persons;

(*j*) monitor utilization of funds disbursed by the Central Government for the benefit of transgender persons; and

(*k*) such other functions as the Central Government may assign.

Action by Appropriate Authorities on the Commission's Recommen-dations made after Enquiry.

35. Whenever the Commission makes a recommendation to an authority in pursuance of clause (c) of Section 34, that authority shall take necessary action on it, and inform the Commission of the action taken within three months from the date of receipt of the recommendation:

Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the Commission within the above period of three months, and shall also inform the aggrieved person.

Powers of the Commission.

36. (*1*) The Commission shall, for the purpose of discharging its functions under the Act, have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 and in particular in respect of the following matters, namely,— 5 of 1908.

(*a*) summoning and enforcing the attendance of witnesses and examining them on oath;

(*b*) discovery and production of any document;

(*c*) receiving evidence on affidavits;

(*d*) reinvesting for any public record or copy thereof from any court or office;

(*e*) issuing commissions for the examination of witnesses or documents; or

(*f*) any other matter which may be prescribed.

(*2*) The Commission may, while investigating a complaint, make written requests so furnish information question people, review documents or visit the premises to determine upon the nature of violation or non-compliance of regulations.

(*3*) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code 1860 and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure,1973 45 of 1860. 2 of 1974.

Annual and Special Reports of the Commission.

37. (*1*) The National Commission shall submit an annual report to the Central Government and may at any time submit special reports on any matter which, in its opinion,is of such urgency or importance that it shall not be deferred till submission of the annual report.

(*2*) The Central Government shall cause the annual and special reports of the Commission to be laid before each House of Parliament, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission, and the reasons for non-acceptance of the recommendations, if any.

B. State Commission

Constitution of State Commission for Transgender Persons.

38. (*1*) Every State Government may constitute a body to be known as the State Commission (name of the State) for transgender persons to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this chapter.

(*2*) The State Commission shall, with effect from such date as the State Government may be notification specify, consist of—

(*a*) a Chairperson who is an eminent person with a distinguished record of service in the field of transgender rights; and

(*b*) six members, of whom at least three shall be transgender person and to be popularly acknowledged by the representatives of the transgender community and the other three members must have a distinguished record of service in the field of rehabilitation, advocacy, law, relating to transgenders.

(*3*) The Chairperson and the Members shall be appointed by the State Government on the recommendation of Selection Committee with such composition as may be prescribed.

(*4*) The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.

(*5*) A State Commission may inquire *suo-moto* or on a complaint by an affected transgender person or any person or organization on his behalf, with respect to deprivation of his rights and safeguards in respect of matters for which the State Government is the approrpiate government.

Resignation and Removal of Chairperson and Members.

39. (*1*) The Chairperson or any Member may, by notice in writing under his hand addressed to the Governor resign his office.

(*2*) Subject to the provisions of sub-section (*3*) of section 39, the Chairperson or any Member shall only be removed from his office by order of the Governor on the ground of proved misbehaviour or incapacity has, on inquiry held in accordance with the procedure prescribed under this Act.

(*3*) Notwithstanding anything in sub-section (*2*) of section 39 the Governor may, by under, remove from office the Chairperson or any Member, if the Chairperson or such Member, as the case may be—

(*a*) is adjudged an insolvent; or

(*b*) engages during his term of office in any paid employment outside the duties of his office; or

(*c*) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude.

Term of Office of Chairperson and Members.

40. The Chairperson and Members of the State Commission shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment for another term of three years.

Member to act as Chairperson or to Discharge his Functions in Certain Circumstances.

41. (*1*) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of the death, resignation or otherwise, the Governor may, by notification authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(*2*) If the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, one of the Member as the Governor may, by notification, authorise in this behalf, shall dicharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and Conditions of Service of Chairpersons and Members.

42. The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and the Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.

Officers and other staff of the Commission.

43. (*1*) The State Government shall make available to the Commission an officer of the rank of the Secretary to the State Government who shall be the Secretary to the Commission.

(*2*) Subject to such rules as may be made by the State Government in this behalf, the Commission may appoint such other administrative and technical officers and staff as it may consider necessary.

(*3*) The salaries, allowances and conditions of service of the officers and other appointed under sub-section (*2*) of section 43, shall be such as may be prescribed.

Annual and Special Reports of State Commission.

44. (*1*) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, it its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(*2*) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations, if any.

Application of certain provisions relating to National Commission to State Commissions.

45. The provisions of section 26, 27, 29 30, 32 and 34 shall apply, mutatis mutandis to a State Commission and shall have effect, subject to the following Modifications, namely,—

(*a*) reference to "commission" clause be construed as references to "State Commission"; and

(*b*) in section 34, clause (*8*) shall be omitted.

CHAPTER VIII

TRANSGENDER RIGHTS COURTS

Special Transgender Rights Courts.

46. For the purpose of speedy disposal of suits of a civil nature which may be filed by on behalf of transgender persons regarding infringement of their rights as a transgender person, under this or any other law for the time being in force, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification in the official gazette, specify for each sub-division, a court to be a Special Transgender Rights Court for the hearing and disposal of such suits and criminal cases, as prescribed.

Exclusive transgender rights Courts.

47. Notwithstanding anything contained in Section 46, the State Government, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette:—

(*i*) may establish for each district, and

(*ii*) shall establish for each city with a population of 10 lakh or more as per the last Census, a court as an exclusive Transgender Rights Court, and such court shall hear and dispose of only suits of the type mentioned in Section 46.

Jurisdiction of transgender rights courts.

48. Where a district has one or more exclusive Transgender Rights Courts established under Section 47, their jurisdiction *vis-a-vis* that of Special Transgender Rights Courts specified under Section 46, shall be such as the State Government may, by notification in the official Gazette, specify.

CHAPTER IX

OFFENCES & PENALTIES

Offences by Establishments.

49. (*1*) Where any offence under this Act has been committed by an establishment, every person who, at the time the offence was committed, was the appointed head or was directly in charge of, and was responsible to the establishment for the counduct of its business, as well as the establishment, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in sub-section (*1*) of Section 49, shall render any such person liable to any punishment provided in this Act, if he proved that the offence was committed without his knowledge or that all due diligence was exercised to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*) of section 49, Where an offence under this Act has been committed by an establishment and it is proved that the offence has been comitted with the consent or connivance of, or is attributable to any neglect on the part of any other officer of the establishment, such person shall also deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Penalty for Hate Speech.

50. Whoever voluntarily or knowingly commits or abets the offence by words, either spoken or written, or by signs or by visible representations or otherwise, shall be punished with imprisonment for a term which may extend to one year and with fine.

Penalty for Failure to Furnish Information.

51. Whoever fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, he is duty bound to produce or furnish or to answer any question put in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, shall be punishable with fine which may extend to rupees twenty-five thousand in respect of each offence, and in case of continued failure or refusal, with further fine which may extend to rupees one thousand for each day, of continued failure or refusal after the date of original order imposing punishment of fine.

CHAPTER X

MISCELLANEOUS

Central Government to provide funds.

52. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds, from time to time, for carrying out the purposes of this Act.

Act to be in Addition to and not in derogation of any other law.

53. The provisions of this Act or the rules made there under shall be in addition and not in derogation of any other legislation, rules, orders or instructions which provides any entitlement or benefit to transgender persons.

Action taken in good faith.

54. No suit prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rule there made under.

Power to remove difficulties.

55. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power of appropriate Government to make rules.

56. (*1*) Subject to the Other Provisions of this Act, the appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) Prior to the formation of the rules, the appropriate Government shall make available the draft of the rules in accessible formats to the members of the public and invite their suggestions and objections to the same.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made before each house of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule of both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form, or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(*4*) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such legislature consists of one house, before that house.

Powers of National Commission to make Regulations.

57. (*1*) The National Commission may with the previous approval of Central Government, by notification make regulations consistent with this Act and the rules for the effective implementation of the purposes of this Act, in respect of the matters to any of the entries enumerated in List I and List III in the Seventh Schedule to the Constitution.

(*2*) Without prejudice to the generality of sub-section (1) of section 57, the National Commission shall make regulations relating to the,—

(*a*) establishment of such committees as may be required for the efficient performances of its functions;

(*b*) composition, membership, qualification, terms and conditions of appointment, removal, tenure, meetings, quorum and resignation of the Committees, formed by the National Commission;

(*c*) rules of procedure for transaction of business;

(*d*) rules of procedure for convening meetings of Chairpersons of State Commissons;

(*e*) form in which and the time at which the meetings to be called;

(*f*) manner in which and the time at which meetings of National Commission to be convened ; and

(*g*) any other matter incidental or ancillary for the enforcement of this Act.

(*3*) Prior to be finalization of the regulations, the National Commission shall make available the draft rules in accessible formats to the members of the public and invite their suggestions and objections to the same.

Power of the State Commission to make Regulations.

58. (*1*) The State Commission shall have the power to issue regulations with the Previous approval of state governments, which are in conformity with the Act and the Rules for the effective implementation of the purposes of this Act, in respect of the matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution:

Provided that where any regulation has already been issued in any such matter pertaining to List III by the National Commission, such regulations shall prevail over the regulations of the State Commission pertaining to the said matter.

(*2*) Without prejudice to the generality of sub-section (*1*) of Section 58, the State Commission shall make regulations relating to the,—

(*a*) establishment of such Committees as may be required for the efficient performance of its functions;

(*b*) composition, membership, qualifications, terms and conditions of appointment, removal, tenure, meetings, quorum and resignation of the Committees formed by the State Commission; and

(*c*) any other matter incidental or ancillary for the enforcement of this Act.

(*3*) Prior to the finalization of the regulations, the State Commission shall make available the draft rules in accessible formats to the members of the public and invite their suggestions and objections to the same.

STATEMENT OF OBJECTS AND REASONS

Despite some recent progressive measures by the Government, India's trangender community continues to face a plethora of problems. Transgender persons are sidelined and treated as untouchables. The denial of social justice leads to the denial of economic and political justice. The suffer from poor access to education, healthcare, legal aid, employment and lack of social acceptance. Measures towards sensitization of school administrations, curbing of stigma, discrimination and violence against transgender persons are also mostly absent. They are discriminated against in access to medical services and most hospitals lack adequate skills or provisions to meet their special health needs. The State should seriously address the problems being faced by transgenders such as fear, shame, gender, dysphoria, social pressure, depression, suicidal tendencies, social stigma, etc. and any assistance for Sex Ressignment Surgery for declaring one's gender.

Article 17 of the International Convenant on Civil and Political Rights, 1966 states that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation and everyone has the right to protection of law against such interference or attacks. Legal safeguards to prevent human rights violations of the transgender community and institutional mechanisms to address their specific concerns have to be put in place. Without protection of human rights, there can be no democracy or justification for democracy. We need to have proactive participation of transgender persons in all democratic spaces and systems, including participation in policies framed for their welfare. It must be noted that historically, *Hijra* or transgender persons had played a prominent role in the Indian society. With the onset of colonial rules from the 18th century onwards, the situation had changed drastically.

During the British rule, a legislation was enacted to supervise the deeds of *Hijras* or transgender community, called the Criminal Tribes Act, 1871, which deemed the entire community of *Hijra* persons as innately 'criminal' and 'addicted to the systematic commission of non-bailable offences'. State should take measures to regain their respect and place in the society which they once enjoyed in our cultural and social life. Undoing centuries of discrimination that the transgender community has faced, will require targeted interventions by the State.

Hence this Bill.

TIRUCHI SIVA

FINANCIAL MEMORANDUM

Clause 24 of the Bill provides for the establishment of Special Employment Exchange. Clause 26 of the Bill provides for the establishment of the National Commission for Transgender persons. Clause 30 provides for remuneration and facilities to the Chairperson, Vice-Chairperson and members and Clause 33(3) provides for remuneration and other facilities to officers and other staff of the National Commission. Clause 38 of the Bill provides for the establishment of the State Commissions for Transgender Persons. Clause 42 provides for remuneration and facilities to the Chairperson, Vice-Chairperson and members and Clause 43(3) provides remuneration and facilities to officers and other staff of the State Commission. Clause 46 of the Bill provides for establishment of Special Transgender Rights Courts and Clause 47 provides for the establishment of Exclusive Transgender Rights Courts. Clause 52 makes it obligatory for the Central Government to provide adequate funds to the Authority for the purposes of the Bill.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible at present to quantify the funds that may involve but it is estimated that a sum of rupees five hundred crores may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of rupees one hundred core may also involve for creating assets and infrastructure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 56 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. Clauses 57 and 58 give the National Commission and State Commission respectively the power to make rules relating to their functioning. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

IV

BILL NO. XVI OF 2014

A Bill to provide for compulsory incorporation of gender sensitisation curriculum in educational institutions from primary to secondary level in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title, extent and Commencement.

1. (*1*) This Act may be called the Compulsory Gender Sensitisation Curriculum in Educational Institutions Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "Council" means the State Gender Sensitisation Council constituted under section 7;

(*c*) "educational institution" means any school imparting education from primary to secondary level;

(*d*) "gender sensitisation education" means education based on teaching that propagates gender equality by improving curriculum and text books to include gender positive material and any other learning activities that promote gender equality;

(*e*)"prescribed" means prescribed by rules made under this Act;

(*f*) "President" means the Chairperson of the State Advisory Council referred to in clause (*a*) of sub-section (*2*) of Section 7.

Compulsory imparting of gender Sensitisation education in educational institutions.

3. From such date as the Central Government may, by notification in the Official Gazette, specify, gender sensitisation education shall be compulsorily imparted in all educational institutions upto secondary level.

Issuing of direction by appropriate Government.

4. The appropriate Government shall, immediately after issuance of notification under Section 3, issue direction for compulsory imparting of gender sensitisation education in all educational institution, within its jurisdiction.

Derecognition of educational institution.

5. The appropriate Government shall derecognise an educational institution, which does not comply with the provision of section 3:

Provided that any such derecognition shall be done only after giving such educational institutions a reasonable opportunity of being heard.

Appointment of teachers.

6. Subject to such rules, as many be prescribed, the appropriate Government shall cause to appoint such number of teachers with such qualifications as may be specified, for imparting gender sensitisation education to students upto secondary level.

Establishment of State Gender Sensitisation Council.

7. (*1*) The Central Government shall, by notification in the Official Gazette, establish a State Gender Sensitisation Counicl in each State.

(*2*) The Council shall consist of,—

(*a*) the Union Minister of Human Resource Development , President, *ex officio;*

(*b*) four persons from the State Boards of Primary and Secondary Education, to be nominated by the specific State Board—Members:

Provided that the persons shall be nominated for a period of two years and shall be eligible for re-nomination.

(*c*) three eminent persons from the civil society who are knowledgeable about gender sensitisaton issues, to be nominated by the Governor of the State—Members:

Provided that the persons shall be nominated for a period of two years and shall not be eligible for re-nomination.

(*3*) It shall be the duty of the Council,—

(*a*) to review existing policies, rules, regulations and procedures with a view to encompassing gender values, needs and aspirations as well as removing those which are gender blind or out-of-date.

(*b*) to actively suggest the state boards of education about changes and gender perspective guidelines regarding curriculum design to achieve the aforementioned objective.

(*c*) to co-ordinate with the appropriate Government and educational institutions with a view to ensuring effective implementation of the provisions of the Act.

(*d*) to have the responsibility of reviewing the concerned educational institution in case of voilating of section 3.

(*e*) to recommend the appropriate government on derecognition of educational institutions in case of voilation of section 3 of the Act.

(*f*) to plan, implement, monitor and evaluate gender specific initiatives.

Officers and staff of the State Gender Sensitisation Council.

8. (*1*) The State Government may appoint such number of officers and other employees as it may consider necessary for the discharge of functions of the State Gender Sensitisation Council under this Act.

(*2*) The terms and other conditions of service of the officers and other employees of the Council appointed under sub-section (1) of Section 8, shall be such as may be prescribed.

Application to minority educational institutions.

9. Notwithstanding anything contained in this Act, the provisions of this Act shall apply to a minority educational institution only if the management of such institution conveys to the appropriate Government their willingness to impart gender sensitisation education in their institution.

Central Government to provide funds.

10. The Central Government shall, after due appropriation made by law by Parliament in this behalf provide adequate funds to the States for appointing teachers and other infrastructure required for the purpose of this Act.

Overriding affecting of Act.

11. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act, shall be addition to and not in derogation of any other law for the time being in force.

Power of Central Government to make rules.

12. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Recent spate of sexual and other crimes against women have once again indicated the need to change social attitude towards women in the country. In the debate following these reports, many civil society organisations and educationists have suggested that gender sensitisation from an early age can transform the mind sets towards roles of women among children of both genders.

As Indian society is rapidly changing, with greater participation for women in public life, it is imperative that the new generation is more prepared to incorporate women in all walks of life. In the past the National Council for Educational Research and Training (NCERT) has included gender as an issue in the National School Curriculum in 2005, however its own curriculum implementation report fails to mention whether the recommendations have been incorporated.

Recently, it has also been reported that Central Board of Secondary Education (CBSE) intends to incorporate gender sensitisation in its school curriculum. While this is a laudable development, exposure to gender sensitisation to school students needs to extend to all schools in the country regardless of which board they are studying under.

This Bill proposes that gender sensitisation be incorporated in primary and secondary school curriculum all over the country. This is to signal a clear mandate from the national legislature that school curriculums all over the country should be reviewed to make them more gender sensitive.

The Bill aims that state boards with the recommendations of the State Gender Sensitisation Councils tailor gender sensitisation curriculums to their contexts and ensure successful implementation following this directive.

Hence, this Bill.

KANWAR DEEP SINGH

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for appointment of teachers to impart gender sensitisation education to students. Clause 7 provides for establishment of State Gender Sensitisation Council which shall include person having experience of teaching gender sensitisation education. Clause 10 provides that Central Government shall provide funds for the purpose of teachers and infrastructure. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees one hundred crore will be required for the purpose.

A non-recurring expenditure to the tune of rupees three hundred crore will also be required.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

V

BILL NO. XLVII OF 2014

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-fifth year of the Republic of India as follows:—

Short title and Commence-ment.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2014.

(*2*) It shall come into force with immediate effect.

Amendment of article 275.

2. In clause (*1*) of article 275 of the Constitution, before the existing first proviso, the following proviso shall be added, namely:—

"Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of implementation of various welfare schemes in particular which are directed towards employment generation for the unemployed youth, pension for senior citizens including farmers, widows, physically challenged persons, education and vocational training for the

Scheduled Caste, Scheduled Tribes, Other Backward classes, minorities or development works undertaken by the State in the larger public interest and if that State is unable to implement or execute such schemes or works, as the case may be, due to severe financial crunch being experienced by the State:

Provided further that a sum of rupees ninty thousand crore shall be allocated as grants-in-aid of the revenues of the State of West Bengal as one time grant and rupee thirty thousand crore per annum as recurring expenditure and such amount shall be paid out of the Consolidated Fund of India to the State."

STATEMENT OF OBJECTS AND REASONS

The State of West Bengal has of late started making progress under the present State Government but still it is one of the economically, industrially, educationally and socially backward and underdeveloped State of the Republic of India mainly due to consistent neglect and apathy of successive Governments at the Centre towards the State. The State is inhabitated by poor people, tribals, labourers, farmers, fishermen, etc. and it is facing gigantic problems such as severe unemployment amongst the youth of the State, lack of industrial development due to poor infrastructure and high handedness of trade unions of a front ruling the State in the past, lack of healthcare facilities resulting in spread of various diseases mainly the vector borne diseases like malaria, filaria, dengue, encephalitis, chickengunea, various waterborne diseases, T.B., cancer and other diseases. The road network including the highways passing through the State is in bad shape. There is lack of educational facilities particularly its infrastructure such as buildings, play grounds, drinking water facilities, toilets for girls and boys, desks and tables, hostels, libraries, *etc. etc.* There are millions of senior citizens, widows, physically challenged people who are to be given pension for their living, millions of SC, ST and OBC students who are to be given scholarship *etc.* Apart from apathy of the Centre agitations in the hilly parts of the State also affects the economy of the State.

The present State Government is doing its level best to turn around the economy of the State so as to bring prosperity and overall development of the State but it has its own limitations. The State Government needs huge Central assistance to accomplish its developmental tasks. The Chief Minister of West Bengal consistently demanding for an economic package for the implementation of various development projects and welfare schemes for the youth, poor people, senior citizens, widows, physically challenged, SCs, STs, OBCs, minorities, students, farmers and workers and labourers *etc.* but so far has not succeeded.

Article 275 of the Constitution provides for payments of grants-in- aid of the revenues of various States who are in need of financial assistance for various purposes. In order to enable the Central Government to release funds for the economic package to West Bengal amendment of this article has become necessary.

Hence this Bill.

KANWAR DEEP SINGH

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for Grants-in-aid of the revenues of the State facing severe financial crunch. It also provides for one time Grant-in-aid of rupee ninety thousand crore and rupee thirty thousand crore as recurring annual expenditure. The Bill, if enacted, will involve this expenditure from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

VI

BILL NO. L OF 2014

A Bill to provide for the remunerative prices for the raw jute to the jute growers fixed on the basis of cost of production of jute under the Minimum Support Price Scheme of the Government, compulsory purchase of raw jute by Government, agencies, compulsory insurance of Jute crops free of cost by the Central Government and certain welfare measures to be undertaken by the Central and concerned Governments of the States for the jute growers and jute workers engaged in jute related works and for matters connected there with and incidental thereto.

BE it enacted by Parliament in the Sixty-fifth year of the Republic of India as follows:—

Short title, extent and Commence-ment.

1. (*1*) This Act may be called the Jute Growers and Workers (Welfare) Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires, —

(*a*) "appropriate Government" means in the case of a State the Government of that State and in other cases, the Central Government;

(*b*) "fund" means the Jute growers and Workers Welfare Fund established under Section 4;

(*c*) "jute grower" means any person who cultivates Jute and obtains fibre therefrom;

(*d*) "jute worker" means any person engaged in jute related works as a wage earner, whether in cash or kind for his livelihood and includes a person engaged through a contractor or middleman etc.;

(*e*) "prescribed" means prescribed by rules made under this Act.

Fixation of remunerative price of raw jute.

3. (*1*) Notwithstanding anything contained in any other law for the time being in force, the Central Government shall in consultation with the concerned Governments of the States fix and declare remunerative prices of raw jute under the Minimum Support Price regime on the basis of cost of production of jute before every sowing season.

(2) While fixing the remunerative prices of jute under sub-section (*1*), the Central Government shall take into account the following factors, namely:—

(*a*) Cost incurred by jute growers in sowing, growing and harvesting of jute and obtaining its fibre;

(*b*) Cost incurred on seeds, fertilizers or manure, insecticides and pesticides;

(*c*) Cost incurred on labour;

(*d*) Maintenance cost of the field;

(*e*) Cost incurred on transportation of raw jute to the market or yard or mandi or factory, as the case may be;

(*f*) Climatic conditions and occurrence of natural calamity; and

(*g*) Any other contingency expenditure incurred by Jute growers.

(*3*) The appropriate Government shall give wide publicity to the remunerative prices fixed for raw jute under this Act through print and electronic media and the village Panchayats.

(*4*) The agencies of appropriate Government shall purchase the raw jute from the jute growers at the prices fixed by the Central Government in case the jute growers fail to sell their raw jute in the open market.

(*5*) It shall be the duty of the appropriate Government to keep a watch on the dubious activities of jute traders and middlemen during the immediate post harvest period to ensure that prices of raw jute do not fall as a result of speculation and take such measures, as it may deem necessary to protect the interests of Jute growers.

(*6*) The entire jute crop and the yield thereof shall be compulsorily insured free of cost by the Central Government against natural calamities, fall in the yield of jute, fall in the prices of raw jute and such other eventualities as may be prescribed.

Establishment of Jute Growers and workers Welfare Fund.

4. (*1*) The Central Government, shall, by notification in the official Gazette establish the Jute Growers and Workers Welfare Fund for the purposes of this Act with initial corpus of rupee thirty thousand crore to be provided by the Central Government by due appropriation made by law by Parliament in this behalf and thereafter the Central and concerned State Governments shall contribute to the Fund to such extent and in such manner, as may be prescribed.

(*2*) The Fund may also receive moneys from corporate houses, financial institutions, individuals and bodies in the form of contributions or donations.

Utilization of Fund.

5. (*1*) The Fund shall be utilized for the following purposes, namely:—

(*a*) to provide financial assistance to jute growers for purchasing seeds, manure, fertilizers, pesticides, insecticides etc. for low yield of jute or loss of crop due to natural calamities, fire, wild life etc.;

(*b*) to pay compensation to the next of kin of jute grower or jute worker, as the case may be in the event of his death;

(*c*) to pay insurance premium on behalf of the jute growers;

(*d*) to provide free healthcare facilities for the jute growers and jute workers and their families including maternity facilities to the female members of the families.

(*e*) to provide education including technical, medical, higher education, Information Technology and Vocational training to the children of Jute growers and Jute workers free of cost;

(*f*) to provide financial assistance to the jute growers and jute workers in the event of their disability; and

(*g*) for such other purposes as the appropriate Government may deem fit and necessary for the purposes of this Act.

(2) For the purposes of this Act, the appropriate Government shall, —

(*i*) maintain district-wise register of all the jute growers and jute workers with such particulars and in such manner as may be prescribed.

(*ii*) make provisions for payment of old age pension to the jute growers and jute workers.

Central Government to provide funds.

6. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law in this behalf, requisite funds for carrying out the purposes of this Act.

Act to have overriding effect.

7. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to supplement other laws.

8. The provision of this Act shall be in addition to and not in derogation of any other laws for the time being in force dealing with the subject matter of this Act.

Power to make rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The State of West Bengal is the major Jute producing State of the nation followed by Bihar. Though it is grown in some other States also but in small quantities mainly for local consumption. Jute fibre which is also known as golden fibre, used to hold a glorious position in our country. Even today jute is one of the main commercial crops of the country. Jute fibre is used to make bio-degradable, eco-friendly and cheap bags known as gunny bags used to keep wheat and other agricultural produce including sugar. Earlier almost every product used to be filled in jute bags but with coming of polymer synthetic bags in the market now jute bags are used only for foodgrains.

Of late jute growers in West Bengal and other parts of the country are facing various problems and they are not getting remunerative prices for their produce. Jute cultivation is becoming non-profitable for the growers due to various factors such as increase in the prices of jute seeds, fertilizers, manure, insecticides and pesticides and other inputs. Due to high investment involved in cultivation of jute, jute growers take loans on very high interest rates and unable to repay the loan becoming debt ridden and distressed. Since jute is a commercial crop insurance facility is not available to the jute growers and the growing use of synthetic fibre bags is adding to the miseries of jute growers. In some cases their financial condition or getting into debt trap is compelling many of them to take extreme step of committing suicide.

Ours is a welfare state and therefore it is the responsibility of the Central Government to ensure the welfare of the Jute growers and their families. The Central Government should fix remunerative prices of Jute and implement various welfare measures for them and for the jute workers who are dependent on the jute crops for their employment and livelihood. Their condition is also pitiable because of the plight of jute growers. The Central Government has to establish a Welfare Fund for the jute growers and jute workers to meet their various needs which will make them feel that our welfare State will take care of them.

Hence this Bill.

KANWAR DEEP SINGH

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the Jute Growers and Workers Welfare Fund with the initial corpus of rupee thirty thousand crore to be provided by the Central Government. Clause 6 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is expected that it may involve rupee five thousand crore as recurring expenditure per annum.

A sum of rupee one thousand crore may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATAED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VII

BILL NO. XXXII OF 2014

A Bill further to amend the Citizenship Act, 1955.

BE it enacted by Parliament in the Sixty-fifth year of the Republic of India as follows:—

Short title and Commence-ment.

1. (*1*) This Act may be called the Citizenship (Amendment) Act. 2014.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of Section 9.

2. In section 9 of the Citizenship Act, 1955 in sub-section (*1*) after the first proviso the following proviso shall be inserted, namely:— 7 of 1955.

"Provided further that no citizen of India, shall be deemed to have lost his citizenship merely on grounds of his or her availing the facility conferred by the order enacted by Portuguese Government, of registering their births in Portugal, to the Indians citizens, residing in the territory of erstwhile Union Territory of Goa, Daman and Diu and the Union Territory of Dadra and Nagar Haveli, then ruled by the Government of Portugal, unless such Indian citizens voluntarily apply for the citizenship of that country with specific intension of renouncing the citizenship of India.

STATEMENT OF OBJECTS AND REASONS

Thousands of Goans born in "Estado da India", *i.e*. Goa, Daman & Diu, prior to 19.12.1961, and in Dadra & Nagar Haveli, prior to 21.08.1954 and their births registered in the Civil Registration Offices of these territories before the above mentioned dates have been given a facility by the Portuguese Government by issuing an order in 2006, to register their birth in Portugal.

There is an urgent need that thousands of other Indian citizens who were residing in the erstwhile Union Territory of Goa, Daman and Diu and Dadra and Nagar Haveli who got their births registered in Portugal, in the last seven to Eight years in the bonafide belief that such a registration will help them to go to Europe freely, without any hassles, and whereas, some others, believed that the facility may help them easy access to the foreign universities. There was, apparently, no intention, of the most of the applicants that, in the process, they would lose the Indian citizenship.

Recently, a Member of Goa by Assembly, who had registered his birth in Portugal availing the above said facility has been declared, by an order issued by the Central Govt. under the Citizenship Act, 1955, as having caused his Citizenship in India.

The issue has taken a complicated turn as these thousands of Indian citizens are likely to be considered as non-citizens and there is a danger of ceasing Indian citizenship if the provisions of Indian citizenship are not interpreted by taking into this background.

Hence, this Bill.

SHANTARAM NAIK

VIII

BILL NO. XXXIII OF 2014

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-fifth year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) The Act may be called the Constitution (Amendment) Act, 2014.

(*2*) It shall come into force at once.

Amendment of Tenth Schedule.

2. In the Tenth Schedule of the Constitution, for paragraph 6 the following shall be substituted, nemely:—

"6. If any question arises as to whether a member of a House has become subject to disqualification under this schedule, the question shall be referred for the decision of the Election Commission of India."

STATEMENT OF OBJECTS AND REASONS

The Tenth Schedule of the Constitution has succeeded in bringing considerable purity in our political system. The schedule has recently undergone a change. However, there is a popular demand that the authority to decide whether a member has become subject to disqualification under the Tenth Schedule of the Constitution, should rest in the Election Commission. This demand is gaining force in the States on account of controversies created following decisions of the Presiding Officers of some States.

The entire process of decisions under Tenth Schedule should be transparent and should be totally insulated from possible political bias.

Although Presiding Officers are independent in their own right, even than declaring a member disqualified should be left to a constitutionally independent authority like Election Commission of India.

The proposed amendment seeks to provide for the same.

Hence this Bill.

SHANTARAM NAIK

IX

BILL NO. XXXIV OF 2006

A Bill to provide for the quoting of source of law while publishing notifications, orders, circulars, tenders for bringing in transparency in government functioning and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-fifth year of Republic of India as follows:—

Short title, extent and commence-ment.

1. (*1*) This Act may be called the Quoting of Source of Law Bill, 2014.

(*2*) It extends to the whole of India except to the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as "the Central Government" may, by notification in the official gazette, appoint and different dates may be appointed for different States and Union Territories.

Definitions.

2. In this Act, unless the context otherwise requires—

(*a*) "appropriate Government" means in case of a State, the Government of that State and in other, cases the Central Government;

(*b*) "publish" means publishing through official gazette, newspapers, magazines and other print media;

(*c*) "prescribed" means prescribed by rules made under this Act.

Quoting of some of law by appropriate Govt.

3. Notwithstanding anything contained in any other law in the time being in force the appropriate Government shall not publish a notifications, orders, circulars, tenders without quoting of source of law *viz.* Constitution of India, Act of Parliament or State Legislatures, rules framed thereunder, regulations, bye-laws etc.

Power to make rules.

4. The Central Government may, by notification, in the official Gazette make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Central Government as also State Governments publish, from time to time notifications, orders, tenders etc. in Official Gazettes, newspapers and other print media. However, in most of the cases, the source of the law, namely, Constitution of India, Act of Parliament or the Act of a State Legislature, rules, regulations or byelaws, under which these are issued, do not find mention therein.

To ensure transparency in the administration public should know all the relevant aspects of government acts and deeds which are being published under the authority of law regulations.

Public, companies, corporations or other bodies affected by such notifications, orders etc. will get a clear idea if source of law under which these documents are published, is made known to them. If any notification, order or tender etc. is issued under the executive powers of any authority, constitutional or otherwise, the same should invariable be mentioned.

This will also prevent the authorities concerned from issuing notifications or orders etc., which are outside the scope of the law.

Hence this Bill.

SHANTARAM NAIK

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Clause 4 of the Bill empowers the Central Government to make rules for the purposes of this Bill. The rules relate to matters of details only.

The delegation of legislative power is of a Normal Character.

X

BILL NO. XXXVII OF 2014

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title and Commencement.

1. (*i*) This Act may be called the Constitution (Amendment) Act, 2014.

(*ii*) It shall come into force at once.

Amendment of article 39.

2. In article 39 of the Constitution, after clause (a), the following clauses shall be inserted, namely:—

"(*aa*) that every citizen has the right to have access to clean and safe drinking water;

(*ab*) that every citizen has the right to have access to sanitation services; and

(*ac*) that every citizen has the right to have adequate shelter".

STATEMENT OF OBJECTS AND REASONS

Safe and clean drinking water, sanitation and adequate shelter are basic human needs for sustain life. These facilities are essential to the full enjoyment of life and all other human rights. An estimated 884 million people lack access to safe drinking water about 100 millions people live without shelter and a total of more than 2.6 billion people do not have access to basic sanitation. Studies also indicate that about 1.5 million children under the age of 5 die each year and 443 million school days are lost because of water and sanitation related diseases. The United Nations also voice deep concern and offer funding, technology and other resources to help poorer countries scale up their efforts to provide clean accessible and affordable drinking water and sanitation and adequate shelter for everyone.

The right to life enshrined in article 21 of the Constitution has no meaning unless the citizen has the right to access to clean and safe drinking water, shelter and sanitation services. The UN General Assembly and Human Rights Council also recognised these as the human right. The Bill seeks to amend the Constitution with a view to make it a duty of the State to recognise and secure these rights to every citizen of the country.

Hence this Bill.

SANJAY SINH

XI

BILL NO. XXXVIII OF 2014

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*i*) This Act may be called the Constitution (Amendment) Act, 2014.

(*ii*) It shall come into force at once.

Amendment of article 214.

2. In article 214 of the Constitution, the following proviso shall be inserted, namely:—

"Provided that the Parliament may by law establish such number of permanent benches of a High Court at such places in a State or a Union Territory, as it may deem necessary, on the basis of area and population of that State or Union Territory and the number of cases pending in the principal seat of the concerned High Court".

STATEMENT OF OBJECTS AND REASONS

Our Constitution makes right to legal remedies a fundamental right. But the pendency of cases in various courts especially High Courts is a matter of serious concern. Considering the huge geographical expanse of our country and the prevailing poverty, seeking legal remedy has become an expensive exercise. Time has come to deliver justice in an easy, quick and cost effective manner to the people. Providing speedy justice at low cost is all the more important for the people who live in remote areas, far away from State capitals where principal seats of the most of the High Courts are located. Such a situation literally results in denial of justice to the poor persons who cannot afford to travel frequently to far off places in search of justice. The large volume of cases pending in the High Courts has resulted in delayed delivery of justice which amounts to denial of justice. Moreover, since most of the High Courts are located at State capitals, the advocates of a particular place create a monopoly for themselves charging exorbitant fees which are not within the means of poor persons and they are obliged to sell off their property in their quest of justice. If more benches of High Courts are established, it will serve many purposes including convenience and savings for the common man, less pendency of cases and speeds delivery of justice at low cost. This will help to mitigate the sufferings of the masses.

Hence this Bill.

DR. SANJAY SINH

FINANCIAL MEMORANDUM

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India for establishment of permanent benches of High Court in a State and Union Territory. It is likely that it will involve a recurring expenditure of about rupees five hundred crore per year and rupees one hundred crore as a non-recurring expenditure.

XII

BILL NO. XXXIX OF 2014

A Bill to provide for constitution of a Committee for fixing the prices of drugs and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-fifth year of the Republic of India as follows:—

Short title and Commence-ment.

1. (*1*) This Act may be called the Drugs (Price Control) Act, 2014.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "dealer" means a person engaged in the business of purchase or sale of drugs, whether as a wholesaler or retailer and whether or not in conjunction with any other business and includes his agent;

(*b*) "distributor" means a distributor of drugs or his agent and includes a stockist appointed by a manufacturer or an importer for stocking drugs for sale to a dealer; and

(*c*) "drug" includes—

(*i*) all medicines for internal or external use of human beings and all substances intended to be used for, or in the diagnosis, treatment, mitigation, or prevention of any disease or disorder in human beings including preparations applied on human body for the purpose of repelling insects like mosquitoes;

(*ii*) such substances, intended to affect the structure or any function of the human body or intended to be used for the destruction of vermin or insects which cause diseases in human beings; and

(*iii*) formulations all systems of medicine like allopathy, homoeopathy, ayurveda, unani and siddha.

Constitution of Drugs Price Control Committee.

3. (*1*) There shall be constituted a Committee to be known as the Drugs (Price Control) Committee (hereinafter referred to as the Committee) to fix the prices of drugs.

(*2*) The Committee shall consist of—

(*i*)	the Minister of Health and Family Welfare, Government of India	Chairman, *ex-officio;*
(*ii*)	three representatives of major hospitals including Government run hospitals	Members
(*iii*)	two representatives of drugs industry	Members;
(iv)	two representatives of Indian system of medicine	Members;
(*v*)	Secretary to the Government of India, Ministry of Health and Family Welfare	Member Secretary, *ex-officio*

(*3*) the terms and condition of the members appointed under sub-clause (*2*) (*ii*), (*iii*) and (*iv*) shall be such as may be prescribed by rules.

(*4*) the Union Ministry of Health and Family Welfare shall provide the secretarial assistance to the Committee.

Functions of the Committee.

4. The Committee shall—

(*i*) fix the prices of drugs after taking into consideration the costs of manufacturing storage, packaging, import of formulation and distribution as well as profit of manufacturer and such other factors as it may deem necessary;

(*ii*) promote the use of generic drugs; and

(*iii*) determine the standard of drugs.

Prohibition on selling of drug at a price exceeding the price fixed by the Committee.

5. No person or a manufacturer or a distributor or a dealer shall sell any drug to any consumer at a price exceeding the price fixed by the Committee.

Penalty.

6. (1) Whoever contravenes the provisions of this Act shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to one lakh rupees.

(2) Where an offence under this Act has been committed by a company, the license of such company shall be cancelled forthwith.

Explanation. —For the purpose of sub-section (*2*), "company", means any body corporate, and includes a firm or other association of individuals.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Prices of drugs and medicines are on the rise. However, the Government controls the prices of 348 drugs listed in the national list of essential medicines. Recently, the drug price regulator, the National Pharmaceutical Pricing Authority (NPPA) had withdrawn guidelines for price control of 108 life saving drugs thereby allowing pharmaceutical companies to raise price as per their choice to secure windfall gain.

The prices of drugs are increased arbitrarily by manufacturers and traders. The poor regulatory mechanism allows the manufacturing and marketing of spurious drugs in the name of the generic version. People, especially poor people, are affected by the exorbitant cost of drugs. They are not able to afford the medicines. At present there is no legislation to put a check on the prices of drugs. Medical practitioners under the garb of money and costly gifts from manufacturers generally prescribe costly medicines which common man cannot afford. They should instead prescribe generic drugs which are cheaper and more affordable and as effective as branded ones. The Bill seeks to achieve the above objectives.

SANJAY SINH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of a Committee to be known as the Drugs (Price Control) Committee to fix the prices of drugs. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five hundred crore per annum.

A non-recurring expenditure of about one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Since the rules will relate to matters of details only, the delegation of legislative powers is of a normal character.

XIII

BILL NO. XLV OF 2014

A Bill to provide for the protection and other measures to be undertaken by the Central and State Governments for the girl child and adolescent girls to save them from malnutrition, anaemia and various diseases afflicting them in Gujarat and other parts of the Country and for special provisions for nutritious meals supplemented by folic acid and multi vitamin tablets, timely health check-ups and medication free of cost and certain welfare measures to be undertaken by the State for the girl child and adolescent girls and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-fifth year of the Republic of India as follows :—

Short title, extent and commencement.

1. (*i*) This Act may be called the Girl child and Adolescent Girls (Protection from Malnutrition, Anaemia, Diseases and Welfare) Act, 2014.

(*ii*) It extends to the whole of India.

(*iii*) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) ''adolescent girl'', means a female human being who has attained puberty and is below the age of eighteen years;

(*b*) "appropriate Government'' means in the case of a State, the Government of that State and in other cases the Central Government ;

(*c*) ''girl child'' means a female human being who is below the age of ten years;

(d) ''parent'' in relation to a girl child or adolescent girl, as the case may be, include mother, father, a guardian and every person who has the actual custody of such girl child or adolescent girl ;

(e) ''prescribed'' means prescribed by rules made under the Act.

National Policy for the pretection and welfare of girl child and adolescent girls.

3. (*1*) Notwithstanding anything contained in any other law for the time being in force, the Central Government shall, as soon as may be, but within one year of the commencement of this Act, formulate and publish in the Official Gazette, a national policy for the overall protection and welfare of the girl child and adolescent girls belonging to poor and middle class families in the society who are malnourished anaemic and diseases prone and shall take appropriate measures for the uniform implementation of such a National policy.

(*2*) In particular and without prejudice to the generality of the provisions contained in sub-section (*1*) such national policy may indude provision for,—

(*a*) census or survey, from time to time, of girl child and adolescent girls who are malnourished in slum areas, *Jhuggi-Jhopri* clusters, backward and tribal areas and rural areas and maintain a data thereof in such manner and with such particulars, as may be prescribed;

(*b*) conducting a periodic medical examination of every girl child and adolescent girl covered under this Act from time to time and taking such remedial measures as are recommended by the medical authorities;

(*c*) making it mandatory for the appropriate Government to provide folic acid and multi-vitamin tablets to every malnourished and anaemic girl child and adolescent girl;

(*d*) providing a monthly allowance of not less than two thousand rupees to every malnourished girl child and adolescent girl covered under this Act for taking healthy meals in such manner as may be prescribed;

(*e*) providing sanitary napkins and proper dresses to the adolescent girls covered under this Act in such manner as may be prescribed,—

Certain welfare measures for the girl child and adolescent girls.

4. (*1*) It shall be the duty of the appropriate Government to provide every girl child and adolescent girl covered under this Act,—

(*a*) Medical facilities including medicines and hospitalization wherever necessary free of cost ;

(*b*) Educational facilities including technical, medical, vocational, information technology and higher education at the college and university level free of cost;

(*c*) Recreational, entertainment and playing facilities;

(*d*) Such other welfare and protective measures as may be deemed necessary and appropriate or as may be prescribed.

(*2*) It shall be the duty of every parent of a girl child or adolescent girl covered under this Act,—

(*a*) To send the girl child or adolescent girl, as the case may be, to an educational institution for getting education as per her age;

(*b*) Not to burden the girl child or adolescent girl, as the case may be, with household chores and allow her to study, play and entertain;

(*c*) Not to pledge or force the girl child or adolescent girl, as the case may be, to work as a domestic servant.

(*3*) No person shall employ a girl child or adolescent girl as domestic servant or in any establishment in any manner whatsoever.

Penalty.

5. Whoever contravenes the provisions of sub-section (*2*) or (*3*) of section 4 shall be punishable with imprisonment for a term which shall not be less than one year but may extend up to three years and also with fine which may extend up to two lakh rupee.

Central Government to provide funds.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, to the States and Union Territories for carrying out the purposes of this Act.

Act to supplement other laws.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Power to make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Recently, it was widely reported in the national print and electronic media that malnutrition and anaemia is prevalent among the girl child and adolescent girls of not only the economically backward States and regions of the Country but in the model State of Gujarat also, which has the highest number of malnourished and anaemic girl child and adolescent girls. It is very unfortunate that girl child and adolescent girls in major parts of our vast nation remain neglected, malnourished and suffer from anaemia and various diseases. In some parts they are married off and majority of such malnourished *Balika Badhus* meet fre-natal and post-natal deaths. It is very common that they are not treated well in their own families. They are either not given nutritious meals or their families cannot afford nutritious meals for them. In some cases let alone the nutritious meals, they don't even get two square meals. Majority of them are forced to work as domestic maids etc. They remain illiterate and exploited.

Ours is a welfare State and it is the duty of the State to take care of these unfortunate girl child and adolescent girls and initiate welfare measures for them.

Hence this Bill.

AHMED PATEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for a National policy for the protection and welfare of girl child and adolescent girls. Clause 4 provides for certain welfare measures for the girl child and adolescent girls. Clause 6 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees Thirty thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of twenty thousand crore rupee may also be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carring out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XIV

BILL NO. XLVIII OF 2014

A Bill to provide for the protective measures and special facilities for the farmers of arid, desert and drought prone areas, who are often affected by natural calamities causing loss of crops, livestock, etc., making them vulnerable to indebtedness, diseases and physical infirmities, exploitation by moneylenders and others, by extending welfare measures by the Central and State Governments for them, for the establishment of a welfare fund, for the removal of indebtedness, giving remunerative prices for their produce, providing hassle free Bank loans, improving farming practices through scientific means to grow less water consuming crops, for compulsory crop and livestock insurance and such other measures and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-fifth year of the Republic of India as follows:—

Short title, extent and Commence-ment.

1. (*1*) This Act may be called the Farmers of Arid and Desert Areas (Welfare and Other Special Provisions) Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(*b*) "arid areas" means areas which remain affected by aridity due to scanty or no rainfall;

(*c*) "drought prone areas" means any area which gets below normal rainfall in any season of a calendar year and which in the opinion of the Central Government is drought prone and declared to be so by notification in the Official Gazette, for such period as may be specified in the notification;

(*d*) "desert area" means an area full of sand, mostly remains waterless with few plantation and vegetations;

(*e*) "farmer" means a person who owns agricultural land and cultivates or causes it to be cultivated for agricultural purposes or for horticulture purposes and includes all farmers big, middle, small and marginal farmers as identified by the appropriate Government.

(*f*) "natural calamity" means with reference to arid and desert areas, drought, flood, excessive rains, storm, hailstorm, winds, frost, winterkill, lightening, fire, earthquake, wild life, insect infection, plant disease and such other natural causes as may be prescribed;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "welfare fund" means the Arid and Desert Areas Farmers Welfare Fund established under section 4;

National Plan for welfare of farmers of arid and desert areas.

3. (*1*) Notwithstanding anything contrary contained in any other law for the time being in force, the Central Government shall, as soon as may be, formulate and publish in the Official Gazette, a National Plan for the welfare of the farmers of arid, desert and drought prone areas in particular of Gujarat, Rajasthan etc. as may be necessary, incidental or conducive for such plan and shall take appropriate measures for proper implementation of such plan.

(*2*) In particular and without prejudice to the generality of the provisions contained in sub-section (1) such national plan may include provision of,—

(*a*) immediate interim relief or ex-gratia payment to farmers affected by natural calamity;

(*b*) diversification of crops which require very less water developed by various Agri Research Institutes suitable for arid, desert and drought prone areas ;

(*c*) comprehensive crop and livestock insurance scheme for the arid, desert and drought prone areas in which insurance premium of small and marginal farmers shall be borne by the Central Government;

(*d*) ensuring remunerative prices for the agricultural produce of the farmers through Minimum Support Price mechanism or other appropriate measures;

(e) making easy availability of fertilizers, manure, pesticides and quality seeds at affordable prices ;

(*f*) Irrigation projects to provide requisite irrigation facilities and ensuring timely completion of such irrigation projects;

(*g*) Comprehensive measures for removing indebtedness, easy loans with nominal interest from Banks and other financial institutions, saving farmers from private moneylenders and unscrupulous traders, middlemen etc.

(*h*) establishing agricultural farms to ensure timely and adequate supply of quality seeds and saplings at affordable prices;

(*i*) establishing agricultural Universities, Krishi Vigyan Kendras and Krishi Information Centres at conspicuous places for promotion of less water consuming crops and horticulture;

(*j*) establishing modern veterinary hospitals and clinics in every block to assist farmers in animal husbandary ;

(*k*) promoting dairy sector, rearing of animals, poultry, piggery, bee keeping etc. to enhance farm income;

(*l*) promoting cultivation of vegetables, floriculture, horticulture, spices, sericulture, herbals and plants of medicinal values alongwith handloom and handicrafts and other village arts to supplement the income of farmers;

(*m*) promoting traditional water bodies like wells, ponds, lakes, etc. and rain water harvesting and providing sprinklers etc. and regular power supply to farmers; and

(*n*) providing such other facilities as may be necessary, incidental and expedient as may be prescribed.

Establishment of welfare fund.

4. (*1*) The Central Government, shall, as soon as may be, by notification in the Official Gazette, establish a Welfare fund to be called the Arid and Desert Areas Farmers Welfare Fund for carrying out the purposes of this Act.

(*2*) The initial corpus of the welfare fund established under sub-section (*1*) shall be rupee ten thousand crore to be provided by the Central Government after due appropriation made by Parliament by law in this behalf.

(*3*) After the establishment of the welfare fund, money shall be provided to the Welfare Fund by the Central Government and the concerned Governments of the States in such proportion and in such manner as may be prescribed.

(*4*) The Welfare Fund shall also comprise money received from the general public, body corporate and domestic and foreign financial institutions as donations, gifts etc.

(*5*) The welfare fund shall be utilised for providing immediate financial assistance, ex-gratia payments, compensation to the distressed farmers covered under this Act affected by any natural calamity or disaster resulting in loss of crops in such manner, as may be prescribed.

(*6*) The Welfare Fund shall also be utilized for providing special assistance as may be formulated by the appropriate Government for the children, women, physically challenged or infirm farmers, old farmers and such other persons vulnerable to the aftermath of natural calamity in such manner as may be prescribed.

Welfare measures to be undertaken by appropriate Government.

5. It shall be the duty of the appropriate Government to provide every farmer covered under this Act,—

(*a*) medical facilities including medicines and hospitalization, wherever required free of cost ;

(*b*) educational facilities including higher education free of cost to the children of such farmers;

(*c*) maternity facilities to the spouses of such farmers;

(*d*) adequate old age allowance which is sufficient to lead a dignified life;

(*e*) disability pension to the physically challenged farmers; and

(*f*) such other welfare and protective measures as may be deemed necessary and appropriate, or as may be prescribed

Central Government to provide funds.

6. The Central Government shall provide, after due appropriation made by Parliament by law in this behalf, necessary requisite funds to the concerned Governments of the States, from time to time, for carrying out the purposes of this Act.

Power to remove difficulty.

7. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of two years from the commencement of this Act.

(*2*) Every order made under sub-section (*1*) shall be laid, as soon as may be, after it is made, before each House of Parliament.

Act to have overriding effect.

8. The provisions of this Act and the rules made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Power to make rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Gujarat in particular the Saurashtra and Kutch regions and major parts of Rajasthan are having arid and desert areas where sand is everywhere. These areas face extreme heat in summer and extreme cold in winter. Many a time, they face heavy rains but mostly the rainfall is scanty and deficient. Similarly, large number of areas in various parts of our vast nation particularly in the States of Andhra Pradesh, Telangana, Jharkhand, Bihar, Madhya Pradesh, Maharashtra, Odisha etc. are frequently affected by unprecedented drought conditions and desert is spreading in many of such areas. Despite the harsh natural conditions and vagaries of nature, agriculture continues to be the main occupation in these regions and areas of the country and farmers are the backbone of the economy in these regions and areas too as is the case of the rest of the Country.

Although the farmers of the entire nation depend on rains for their crops same is true for the farmers of arid and desert areas and those face frequent drought conditions. But farmers of arid and desert face extreme weather conditions and bear the brunt of such weather conditions and generally lose their crops. With the damage of the crops, the hopes and aspirations of the farmers too are lost. The farmers of such areas remain indebted and distressed.

Ours is a welfare State and it is the duty of the State to protect the farmers of arid, desert and drought prone areas by giving sufficient protection. The State should implement comprehensive crop and livestock insurance, extending soft loans by Banks and financial institutions, providing timely adequate compensation when their crops are affected by natural calamity. They must get remunerative prices for their produce and State should implement welfare measures for them. A welfare fund should be set up for the farmers of arid and desert areas.

Hence this Bill.

AHMED PATEL

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of welfare fund for the farmers of arid and desert areas with initial corpus of rupee ten thousand crore to be provided by the Central Government. Clause 5 provides for certain welfare measures to be undertaken by the appropriate Governments. Clause 6 makes it mandatory for the Central Government to provide requisite funds to concerned States.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupee twenty thousand crore, may be involved as recurring expenditure per annum.

A non-recurring expenditure of rupee five thousand crore may also be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XV

BILL NO. XXXVI OF 2014

A Bill to provide for the protection from exploitation and welfare measures to be undertaken by the State for the salt workers of Gujarat and other parts of the Country by setting up a welfare fund, for payment of minimum wages, old age pension, healthcare, maternity facility for women workers, educational facilities for their children and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title, extent and Commencement.

1. (*1*) This Act may be called the Salt Workers (Protection and Welfare) Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(*b*) "employer" means any person who employs, whether directly or through any other person, or contractor, whether on hehalf of himself or on behalf of any other person, one or more labourer or workers for work connected with salt making from sea or salt lake, as the case may be, including handling of salt;

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) "salt worker" means any person engaged in making salt from sea or lake water on land by digging shallow wells and pumping out brine or in a chemical factory or any related occupation as a wage earner, whether in cash or kind, for his livelihood and includes a person engaged through a contractor or engaged as a self employed person;

(*e*) "wages" means the remuneration capable of being expressed in terms of money which shall, if the terms of the contract of employment, whether express or implied, are fulfilled, be payable to the salt worker in respect of the work done under this Act;

(*f*) "welfare fund" means the Salt Workers Welfare Fund Constituted under section 3.

Establishment of Salt Workers Welfare Fund.

3. (*1*) The Central Government shall, by notifications in the Official Gazette constitute a fund to be known as the Salt Wokers Welfare Fund for the purposes of this Act with an initial corpus of rupee two thousand crore to be provided by Central Government by due appropriation made by law by Parliament in this behalf and thereafter, the Central Government, Governments of the concerned States and employers shall contribute to the welfare fund to such extent and in such manner as may be prescribed.

(*2*) The grants or donations made by corporate houses, financial institutions both domestic and international, individuals and bodies through donations or otherwise shall be credited to the welfare fund.

(*3*) All money received in the welfare fund shall be utilized for the welfare of salt workers in such manner as the Central Government may prescribe from time to time.

Appropriate Government to undertake welfare measures.

4. (*1*) It shall be the duty of the appropriate Government to undertake such appropriate measures as it thinks fit for the welfare of Salt workers.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), the measures referred to therein may provide for,—

(*a*) maintaining a register of salt workers with such particulars and in such manner, as may be prescribed;

(*b*) maintaining a register of employers employing salt workers with such particulars and in such manner as may be prescribed;

(*c*) ensure that the wages of salt workers is not less than the minimum wages prescribed by it for such workers, from time to time;

(*d*) ensure protection from exploitation and availability of work round the year for the salt workers;

(*e*) payment of old age pension;

(*f*) provident fund facility;

(*g*) medical care, in particular for the skin related diseases caused by salt and salty water which the salt workers have to handle while making salt, free of cost with both the indore and outdoor patient facilities for the salt workers and their family members;

(*h*) maternity and creche facilities for the female salt workers;

(*i*) educational facilities to the children of salt workers, free of cost;

(*j*) water supply for drinking and other purposes;

(*k*) improving standard of living and nutrition;

(*l*) amelioration of the social conditions;

(*m*) providing financial assistance in case of infirmity or disability due to accident or any other reason;

(*n*) such other welfare measures as may be prescribed.

(*3*) In order to defray the cost of measures cited under sub-section (*2*), the Central Government may direct it to be defrayed from the Welfare Fund in such manner as may be prescribed.

Appropriate Government to provide clean drinking water.

5. It shall be the duty of the appropriate Government to provide adequate clean drinking water at the sites where salt is produced for the salt workers and also to make available subsidised diesel at the salt producing sites in such manner as may be prescribed.

Appropriate Government to construct *pucca* roads.

6. The appropriate Government shall construct *pucca* roads in salt producing areas for transportation of salt and repair these roads from time to time.

Appropriate Government to make appointment.

7. (*1*) The appropriate Government may appoint as many Inspectors control, officers and staff as it deems necessary for carrying out the purposes of this Act.

(*2*) Every person appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. 45 of 1860.

(*3*) Any Inspector appointed under this Act, may,—

(*a*) with such assistance, if any, as he may deem fit, inspect at any reasonable time any place which he considers necessary for carrying out the purposes of this Act;

(*b*) do within such place anything necessary for the proper discharge of his duties;

(*c*) exercise such other powers as may be prescribed.

Central Government to provide funds.

8. The Central Government shall, after due appropriation by Parliament, provide funds to Governments of concerned States for carrying out the purposes of this Act.

Overriding effect of the Act.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Penalty.

10. Whoever contravenes any of the provisions of this Act, shall be guilty of an offence and punishable with simple imprisonment which shall not be less than six months but may extend upto two years and also with fine which may extend upto one lakh rupee.

Power to remove difficulties.

11. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may make such order to give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty and any such order shall be final.

Power of Central Government to make rules.

12. The Central Government may make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Salt is a part and parcel of our eating habits and is consumed by one and all. Salt is produced in the coastal states of Gujarat, Maharashtra, Goa, Karnataka, Andhra, Odisha, West Bengal and Tamil Nadu. Gujarat accounts for 76.7 of total salt produced in the country followed by Tamil Nadu 16%, Rajasthan 9%. But the living conditions of salt workers who make salt from the land by digging shallow wells and pumping out the brine and then making salt from the sea water or salt lakes, be it in Gujarat and other parts of our vast nation is very appalling, ridden with poverty, diseases particularly skin diseases, exploitation and in many cases they are bonded labourers. Most of them are illiterates and they are making salt for generations. In Rann of Kutch in Gujarat, salt workers are migrants having no work during monsoon who go back to their villages. They are meagerly paid and remain debt ridden. Salt making process makes them prone to various diseases of skin including cancer and other dangerous diseases. There is no protective umbrella for them in the society. They remain uncared for in their old age and most of them are left to fend for themselves. The salt workers face acute problem of drinking water, power and education for their wards as they stay engaged for nine months in salt making process.

Our nation being a welfare State has to take care of the unfortunate salt workers and their families and children and ensure that they too lead a good life. This Bill tries to ensure that welfare measures are implemented for the salt workers by the Central and State Governments in letter and spirit so as to ameliorate their living conditions.

Hence this Bill.

AHMED PATEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Salt Worker Welfare Fund with an intial corpus of rupee two thousand crore. Clause 8 states that the Central Government after due appropriation by Parliament will provide funds to Governments of concerned States for carrying out the purposes of the Bill. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. The recurring and non-recurring expenditure on this count cannot be estimated at this stage, but has to be worked out by Central Government while implementing the provisions of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XVI

BILL NO. XL OF 2014

A Bill to provide for the protection of women from discrimination, and for the basic facilities like creche, recreational facilities, maternity benefits, hostel and transport facilities, etc. and for the welfare measures to be taken by the employers and the State for the women employees working in government establishments; public sector enterprises including banks and ports, educational institutions including universities, colleges and schools; factories, mines, plantations, agricultural fields, orchards and such other places and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-fifth year of the Republic of India as follows:—

Short title, extent and Commence-ment.

1. (*1*) This Act may be called the Working Women (Basic Facilities and Welfare) Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(*b*) "child" includes a still born child;

(*c*) "employer" means,—

(*i*) in relation to an establishment which is under the control of an appropriate Government, the person or authority appointed by the appropriate government for the supervision and control of the employees or where no person or authority is so appointed, the head of the establishment.;

(*ii*) in relation to an establishment under any local self-government or authority, the person appointed by such authority or local self-government for the supervision and control of the employees or where no person is so appointed the Chief Executive Officer by whatever name called of the local self-government or the authority as the case may be;

(*iii*) in other cases, the person who or the authority which has the ultimate control over the affairs of the establishment;

(*d*) "establishment" include an office of the appropriate Government, quasi government or department including telegraph office, post office, telephone exchange etc., a mine, a plantation, an agricultural field, a hospital or nursing home, a shop or any business establishment, a brick kiln, construction site, any banking establishment, any private office or house, any school, college university or like institution, establishment for the exhibition of equestrian, acrobatic and other performances and any other such place where a woman is employed for any work whatsoever;

63 of 1948. (*e*) "factory" means a factory as defined in the Factories Act, 1948;

14 of 1947. (*f*) "industry" means an industry as defined in the Industrial Disputes Act. 1947;

(*g*) "prescribed" means prescribed by rules made under this Act;

Appropriate Government to ensure Non-discrimination and equal wages for working women.

3. It shall be the duty of the appropriate Government to ensure that no discrimination is done by any establishment on gender basis with its women employees particularly in the matter of payment of wages which are paid to her male counterpart in such establishment.

Employer to have childcare facilities for working women.

4. *(1)* Notwithstanding anything contained in any other law for the time being in force, every employer shall provide basic child care facilities essential for the children of women workers in his establishment with provision of minimum needs like milk, tiffin, clothes, toys and trained *ayahs* to look after children of women working therein.

(*2*) The appropriate Government shall ensure that every employer of an agricultural field provide mobile childcare facilities for the working women in his establishment:

Provided that two or more such employers may provide such childcare facilities collectively for their establishments.

(*3*) The appropriate Government shall open such number of creches at such places as it may deem necessary for carrying out the purposes of this Act.

Recreational facilities.

5. The appropriate Government shall ensure that every employer provides retiring rooms with facilities like bathroom, latrine, drinking water at the workplace or worksite of the working women and also provide recreational facilities like radio, television, etc. for them and their children.

Security Arrangements.

6. The appropriate Government alongwith the employer shall provide adequate and proper security measures for the safety of working women in the establishment, factory or industry, as the case may be, as well as to and from their places of residence.

Maternity Facilities.

7. It shall be the duty of the appropriate government to ensure reservation of beds and proper and adequate maternity facilities for the working women in the hospitals and dispensaries having indoor patient facilities therein.

Hostel and transport facilities.

8. The appropriate Government as well as an employer shall provide hostel and residential facilities both for married and unmarried working women nearest to their place of work and shall also provide cheap, safe and quick transport facilities for such working women.

Protection from health hazards.

9. The appropriate Government shall ensure protection from health hazards particularly for the women working in factories or industries like beedi, tobacco, stone mines, cashew, fish processing, salt, silk construction projects and such other establishments as may be prescribed.

Register of women working.

10. (*1*) The appropriate Government shall maintain a register of working women in such manner and at such place as may be prescribed;

(*2*) The appropriate Government may require an employer to furnish for the purposes of this Act, such statistical and other information, in such form and within such period as may be prescribed.

Overriding effect of the Act.

11. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the working women.

Power to make rules.

12. The Central Government may, by notification in the official Gazette, make rules for carrying out the purpose of this Act.

STATEMENT OF OBJECTS AND REASONS

Despite the unabated female foeticides and dwindling population of girls in the country and the conservative attitude of the society towards women, more and more women are venturing out of their houses to work to support their families. As a result, the number of working women in government services, factories, industries, commercial establishments, agriculture, mines, fish processing sector, silk industry and so on so forth is increasing day by day, but their conditions of employment need amelioration. Various basic and essential facilities which are supposed to be made available to the working women by the government and private employers are either absent or not adequate and satisfactory. Unfortunately, in most of the private sector including agricultural sector, the facilities are rather minimal or negligible and the working women are an exploited lot there. The existing labour laws also do not provide for proper medical, educational, recreational and other facilities for the working women and their children. As regards, other social security causes like security, transport, accommodation has also not been made so far. In many establishments they are not given equal work. This discrimination has to be stopped.

Hence it has become necessary to provide adequate welfare measures for the working women.

Hence this Bill.

K.C. TYAGI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for childcare facilities, whereas clause 5 provides for recreational facilities and clause 7 provides for matenity facilities. Similarly clause 8 provides for hostel and transport facilities for the working women. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of Rs. two thousand crore may involve as recurring expenditure per annum.

A sum of Rs. five thousand crore may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XVII

BILL NO. XLIV OF 2014

A Bill further to amend the Indian Penal Code, 1860*, the Narcotics Drugs and Psychotropic Substances Act,* 1985 *and the Army Act,* 1950.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Penal Code and Other Laws (Amendment) Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force with immediate effect.

Amendment of Section 53 of Act.

2. In Section 53 of the Indian Penal Code, 1860, the words "First Death" shall be omitted. 45 of 1860

Omission of Section 31A of Act.

3. Section 31A of the Narcotics Drugs and Psychotropic Substances Act, 1985, shall be omitted. 61 of 1985

Omission of Section 34 of Act.

4. Section 34 of the Army Act, 1950 shall be omitted. 46 of 1950

STATEMENT OF OBJECTS AND REASONS

The death penalty is the ultimate denial of human rights. It is pre-meditated and cold blooded killing of human being by the State. This cruel, inhuman and degrading punishment is done in the name of justice. It violates the right to life enshrined in the Constitution as well as in the Universal Declaration of Human Rights. According to the National Crime Records Bureau, a total of 1455 convicts or an average of 132 convicts per year were given death penalty during 2001 to 2011. During the same period, sentence for 4321 convicts were commuted from death penalty to life imprisonment.

Section 53 of the Indian Penal Code provides for death sentence and life imprisonment as alternative punishment under certain circumstances. This is not a single offence in the Indian Penal Code which is punishable with mandatory death penalty. In section 53 of the Indian Penal Code death sentence sets the upper limit of punitive strategy. There is no guidelines as to when capital punishment in preference to imprisonment for life or lesser sentence of life imprisonment be awarded. In addition to the Indian Penal Code other laws like the Narcotics Drugs and Psychotropic Substances Act, 1985 and the Army Act, 1950 also have similar provisions. Further, in India the mode of execution of death sentence is by hanging. The Supreme Court in Attorney General of India versus Lachma Devi, AIR 1980 SC 467 held that hanging even if permitted under rule would violate article 21 of the Constitution being barbaric, disgraceful and bringing shame on any civilized society. So far Ninety-eight countries have already abolished death penalty. Now, it is the time for India to follow suit by amending related laws.

The Bill seeks to abolish the death penalty in all cases without exception regardless of the nature of the crime, the characteristic of the offender or the method used by the State to kill the prisoner.

Hence this Bill.

P. RAJEEVE

XVIII

BILL NO. LII OF 2014

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title, extent and Commence-ment.

1. (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 2014.

(*2*) It extends to the whole of India.

(*3*) It shall come into force with immediate effect.

Amendment of section 375.

2. In the Indian Penal Code, 1860 in section 375, the following Exception shall be omitted. 45 of 1860.

"Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape."

STATEMENT OF OBJECTS AND REASONS

The Convention on the Elimination of All forms of Discrimination against Women (CEDAW) which was adopted by the United Nations General Assembly in 1979, for the first time in the sphere of international law, accorded primacy and supremacy to human rights of woman. Whereas India ratified the Convention on 25th June, 1993, much remains to be done within our domestic laws to recognize and enforce the equal right of women to dignity and sexual autonomy. The Protection of Women from Domestic Violence Act, 2005 (act 43 of 2005) falls short of explicitly including rape within the definition of domestic violence. The marital rape exception, which has been retained in the statute book for decades, is a representation of our colonial past and the outdated conception of marriage in the Common Law tradition which regarded wives as no more than the property of their husbands.

However, the growing epidemic of violence against women, especially acts of sexual violence within the household is eroding the fabric of our society and needs urgent action. The abysmally low rate of reporting of incidents of sexual violence committed against women by husbands is an alarming symptom of the historical domination over and discrimination against women by men. This was also recognized by the Report on Amendments to Criminal Law drafted by the Justice Verma Committee in January 2013, wherein it was recommended that the law ought to be amended to delete the marital rape exception and bring our domestic laws in conformity with India's international human rights obligations.

Under Article 253 of the Constitution of India, the Parliament is empowered to enact laws for the whole or any part of the territory of India for implementing treaties and conventions entered into with other countries, or decisions made at any international conference, etc. This Bill proposes to remove the exception of marital rape from the definition of rape under the Indian Penal Code, 1860 and recognize that such extreme forms of violence against women are a violation of the fundamental rights guaranteed equally to all citizens.

However, it is indispensable that the legal prohibition on marital rape is accompanied by changes in the attitudes of not only husbands towards their wives, but also prosecutors, police officers and lawmakers.

Hence this Bill.

AVINASH PANDE

XIX

BILL NO. XLIII OF 2014

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title and Commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 2014.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 77.

2. In section 77 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), for sub-section (3), the following shall be substituted, namely:— 43 of 1951.

"(*3*) Nothing contained in this Act shall be construed to impose a limit on the amount of expenditure, that can be incurred by a candidate or his election agent in connection with the election."

Amendment of section 123.

3. In section 123 of the principal Act, sub-section (6) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Elections entail significant legitimate expenditure on the part of candidates and political parties who want to convey their message to the people. However, India limits campaign spending and such limit have been set at an impractically low level. A candidate who exceeds the prescribed limit faces disqualification. In practice, such limits prevent honest and correct disclosure of candidates' expenditures and drive election expenditures underground.

These negative impacts of election expenditure limits are counterproductive to healthy democratic competition. Removing election spending limits will promote open, publicly visible expenditure, induce honest reporting by candidates, and curb the use of black money in the electoral process.

Hence this Bill.

PROF. M.V. RAJEEV GOWDA

SHUMSHER K. SHERIFF,
Secretary-General.

PUBLISHED BY THE SECRETARY-GENERAL, RAJYA SABHA, UNDER RULE 68 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE RAJYA SABHA.

GMGIPMRND—3642GI(S3)—31-12-2014.